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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/531,604	04/14/2005	Paul Zwart	NL 020998	8162

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EXAMINER

SONG, SARAH U

ART UNIT	PAPER NUMBER
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2874

DATE MAILED: 09/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/531,604	ZWART, PAUL	
	Examiner	Art Unit	
	Sarah Song	2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 April 2005 and 23 June 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Applicant's communication filed on June 23, 2006 has been carefully considered and placed of record in the file. Claims 1-13 have been amended. Claims 14-16 are new. Claims 1-16 are pending.

Drawings

2. The replacement drawing sheet was received on June 23, 2006. The drawing is accepted.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 13 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The claimed invention is directed to non-statutory subject matter. Merely identifying; determining; devising; evaluating etc. is not sufficient to constitute a tangible result, since the outcome of the method steps has not been used in a disclosed practical application nor made available in such a manner that its usefulness in a disclosed practical application is realized. See OG Notices: 22 November 2005, "Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility". Please note: Part b. *Practical Application the Produces a Useful, Concrete, and Tangible Result* under Section IV *Determine Whether the Claimed Invention Complies with the Subject Matter Eligibility Requirement of 35 U.S.C. Sec. 101*, sentence 3, in the OG Notice from 22 November 2005 states 'In determining whether the claim is for a "practical application," the focus is not on whether the steps taken to achieve a particular result are useful, tangible, and concrete, but rather that the final result achieved by the claimed invention is "useful, tangible, and concrete."'.

In Claim 13, the step of “transmitting the identification code to the examination device by the communication means” does not produce an outcome for a disclosed practical application or provide an outcome in such a manner that its usefulness in a disclosed practical application is realized. Therefore, the method of claim 13 does not achieve a final result that is concrete.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. **Claims 1-8, 12-16 rejected under 35 U.S.C. 102(e) as being anticipated by Coffman et al. (U. S. Patent Application Publication 2006/0053036 newly cited).**

7. Regarding claims 1-8 and 14, Coffman et al. discloses a medical examination system comprising a medical examination device (e.g. 120, 580) and a control device (e.g. 40, 540) to operate the medical examination device, wherein the control device transmits signals comprising control signals (“medical care order”, ¶[0103]) accompanied by an identification code (“identifier”, ¶[0104]) and wherein the examination device is provided with means to verify the identification code and is arranged to accept the corresponding control signals when the identification code is correct and to reject the corresponding control signals when the identification code is not correct characterized in that the examination system further comprises communication means (e.g. MTC 100 or “built in transmitter/receiver”, ¶[0100]) for automatically communicating the identification code between the control device and the

Art Unit: 2874

examination device. The communication means are arranged to receive the identification code from the medical examination device for transmittance to the control device or vice versa. The communication means are also arranged to receive the identification code from the control device for transmittance to the examination device. The communication means are arranged for periodically transmitting the identification code and the control device is provided with memory means for temporal storage of the identification code (e.g. storage 45). The communication means comprise IR transmitter means and the control device is provided with IR receiver means. The communication means comprise interrogation means for periodically retrieving the identification code from the control device, wherein the interrogation means comprise an RFID reader and the control device is provided with an RFID tag. The control device may also be provided with a radio frequent transmitter and the examination device may be provided with a radio frequent receiver. Coffman et al. further discloses erasing means for erasing the identification code from a memory of the control device after a predetermined time (§[0072]). See also Figures 1 and 4, §[0065], [0100]-[0104].

8. The method of claims 12, 13, 15 and 16 are also anticipated as being requisite steps for the operation of the device as discussed above.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2874

10. **Claims 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coffman et al.**

11. Regarding claim 9, Coffman et al. does not expressly disclose wherein the identification code comprises a room identification code. However, Coffman et al. discloses that other information may be communicated as needed (§[0108]). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide room identification codes to facilitate tracking of the medical examination device.

12. Regarding claims 10-11, Coffman et al. does not expressly disclose wherein the device is an x-ray device, or more specifically, an x-ray foot switch. However, Coffman et al. discloses that the device may be any clinical device interacting with a patient (§[0110]). X-ray devices, including x-ray foot switches are well known clinical devices. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide an x-ray device or foot switch as the PSA of Coffman et al. since Applicant has not disclosed that the particular examination devices solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with any medical device.

Response to Arguments

13. Applicant's arguments with respect to claims 1-16 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fuchs et al. discloses a method and device for communicating an identification code between a control device and a medical examination device.

Art Unit: 2874

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Song whose telephone number is 571-272-2359. The examiner can normally be reached on M-Th 7:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rodney Bovernick can be reached on 571-272-2344. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Sarah Song
Primary Examiner
Art Unit 2874